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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by The Palestinian Return Centre Ltd, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2018]

* Issued as received, in the language(s) of submission only.

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Legalising Apartheid in Israel

On 19 July 2018, Israel's legislative branch of the government, the Knesset, adopted the "Basic Law: Israel as the Nation-State of the Jewish People". This "Jewish nation-state" bill became Israel's 14th Basic Law by a vote of 62 in favour, 55 against and two abstentions. It declares Israel as the nation-state of the Jewish people while it specifies in law the state's seven-branched menorah emblem, anthem, the Hebrew calendar as the only official calendar, Jerusalem (complete and united, as Israel's capital), Hebrew as state's only language and the right of all Israeli residents to preserve their heritage without consideration of religion and nationality[1].

The law grants religious and national communities the right to maintain a segregated habitat in the state (namely, the practice of having exclusive villages and towns for Jews). Even though Palestinians are the original and indigenous inhabitants of the country they will be officially considered second-rate citizens under an apartheid system that will not allow them to live in exclusive Jewish communities or have the same state benefits, access to land, and freedom of movement and association as the Jewish citizens.[2]

In this bill it is clear that words and values like democracy and equality are not included. Instead of promoting and guaranteeing equal rights for all the residents, the Israeli far-right government chose to only promote the state's Jewish character. In doing so, the new law provides the legal basis for discrimination and exclusion and encourages hatred against Arabs and further displacement of Palestinians, as the state places "national value on development of Jewish settlement and will act to encourage and promote its establishment and consolidation" and adds "the right to exercise national self-determination in the state of Israel is unique to the Jewish people"[3].

As the Basic law defines "The right to exercise national self-determination in the State of Israel is unique to the Jewish people"[4], making Jewish people the only ones to hold the right to exercise national self-determination in Israel. At the same time, Palestinian Arab lawmakers call it discriminatory based on the fact that the new legislation formalises the concept that Israel is a state exclusively for Jewish people, ignoring Israel's minority, like Palestinian Arabs that make up 20% of the population. Taken that the bill now downgrades Arabic from an official language to special status and the fact that Palestinian people were already treated like second class citizens, the law will deepen their sense of alienation and continue to their discrimination.

Among lawmakers, Palestinian members of the Israeli Knesset condemned the law as well, as they claimed it enjoys constitutional power, as an "apartheid law"[5]. Adalah, a leading Palestinian human rights organization in Israel, describes how the law "affirms the principle of apartheid in housing, land and citizenship." Adalah concludes that "this law constitutionally sanctions institutionalized discrimination"[6]. Adalah General Director, Hassan Jabareen, responded to the Israeli parliament's vote to approve the Nation-State Law: "The Jewish Nation-State Law features key elements of apartheid, which is not only immoral but also absolutely prohibited under international law. The new law constitutionally enshrines the identity of Israel as the nation-state of the Jewish people only – despite the 1.5 million

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[1] The Jerusalem Post | JPost.com. (2018). Read the full Jewish Nation-State Law. [online] Available at: https://www.jpost.com/Israel-News/Read-the-full-Jewish-Nation-State-Law-562923 [Accessed 1 Aug. 2018].

[2] Pappe, I. (2018). Israel's new law is a form of apartheid. [online] The Hindu. Available at: https://www.thehindu.com/opinion/op-ed/israels-new-law-is-a-form-of-apartheid/article24513993.ece [Accessed 1 Aug. 2018].

[3] The Jerusalem Post | JPost.com. (2018). Read the full Jewish Nation-State Law. [online] Available at: https://www.jpost.com/Israel-News/Read-the-full-Jewish-Nation-State-Law-562923 [Accessed 1 Aug. 2018].

[4] ibid

[5] BNC, Adalah, Berekdar, N. and Barghouti, O. (2018). "Israel effectively declares itself an apartheid state". [online] BDS Movement. Available at: https://bdsmovement.net/news/israel-effectively-declares-itself-apartheid-state [Accessed 1 Aug. 2018].

[6] Adalah.org. (2018). Israeli parliament votes to approve Nation-State Law that enshrines Jewish supremacy over - Adalah. [online] Available at: https://www.adalah.org/en/content/view/9565 [Accessed 1 Aug. 2018].

Palestinian citizens of the state and residents of East Jerusalem and the Golan Heights – and guarantees the exclusive ethnic-religious character of Israel as Jewish. By defining sovereignty and democratic self-rule as belonging solely to the Jewish people – wherever they live around the world – Israel has made discrimination a constitutional value and has professed its commitment to favouring Jewish supremacy as the bedrock of its institutions."[7]

Najwan Berekdar, a Palestinian citizen of Israel, opposed to the new law, "as a Palestinian citizen of this state, this bill entrenches my third-class citizenship on the land where generations of my family have lived since long before the state of Israel even existed. The Jewish-Israeli majority is loudly reminding us indigenous Palestinian citizens of Israel that we are not welcome in our own ancestral homeland. My people have always suffered from legalized racism by the state of Israel and its institutions, but this law makes our apartheid reality the law of the land like never before"[8]. Omar Barghouti from the Palestinian BDS National Committee commented: "Israel has dozens of racist laws, including some which strikingly fit the UN definition of apartheid. But with the constitutional power of this Basic Law, Israel is effectively declaring itself an apartheid state and dropping its worn-out mask of democracy."[9]

While this new nation-state bill has just recently passed into law, its origins date further back, reflecting Israel's resistance to meet the demands for equality made by its Palestinian citizens. Until today, there are more than 65 Israeli laws that still discriminate, directly or indirectly, against Palestinian citizens in Israel and Palestinian residents of the Occupied Palestinian Territories[10]. One of the laws that already marginalise Palestinians is Basic Law: Israel Lands (1960) that stipulates ownership of "Israel lands". Controlled by the state and authorities like Jewish National Fund (JNF) and the Development Authority, allocation of the ownership of land that can only be transferred between the three entities, while acknowledging that the JNF leases land it owns to Jews only[11].

In 1950, the Law of Return gave Jews around the world the right to automatically become Israeli citizens. At the same time, the Absentees' Property Law (1950) gave to Palestinian refugees, expelled after 29 November 1947, the status of "absentees" while denying any rights on their land, houses and bank accounts which were confiscated by the Israeli state. For Palestinians living in Jerusalem, even if they have a "permanent" residency status, their entrance and residency is "a revocable privilege, instead of an inherent right"[12]. In March 2018, Israel passed a law according to which the interior minister has the power to revoke the residency rights of any Palestinian in Jerusalem on the grounds of a "breach of loyalty" to Israel[13].

Furthermore, the Ban on Family Unification has recently become a permanent law that prevents family unification when one spouse is an Israeli citizen and the other is a resident of the occupied territories, forcing many families to split apart, move abroad, or live in Israel in fear of constant deportation. Lastly, the Nakba Law was introduced in 2011, allowing the finance minister to reduce funding or support to an institution if it holds an activity that commemorates Israel's Independence Day as a day of mourning, depriving by law Palestinian citizens' right to commemorate the Nakba, an integral part of their history. As Adalah has noted, the majority of these laws were adopted since 2000, while from 2009 until now Israeli elections have brought to power the most right-wing government coalitions led by Prime Minister Benjamin Netanyahu. Israel's newest Jewish nation-state law passed on Thursday is just the latest effort to entrench ethnic superiority by promoting racist policies.

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[7] Adalah.org. (2018). Israeli parliament votes to approve Nation-State Law that enshrines Jewish supremacy over - Adalah. [online] Available at: https://www.adalah.org/en/content/view/9565 [Accessed 1 Aug. 2018].

[8] BNC, Adalah, Berekdar, N. and Barghouti, O. (2018). "Israel effectively declares itself an apartheid state". [online] BDS Movement. Available at: https://bdsmovement.net/news/israel-effectively-declares-itself-apartheid-state [Accessed 1 Aug. 2018].

[9] Ibid.

[10] Adalah.org. (2018). The Discriminatory Laws Database - Adalah. [online] Available at: https://www.adalah.org/en/content/view/7771 [Accessed 1 Aug. 2018].

[11] Aljazeera.com. (2018). Five ways Israeli law discriminates against Palestinians. [online] Available at: https://www.aljazeera.com/news/2018/07/ways-israeli-law-discriminates-palestinians-180719120357886.html [Accessed 1 Aug. 2018].

[12] Ibid.

[13] Ibid.

This law guarantees the ethnic-religious character of Israel as exclusively Jewish and determines and entrenches the national interest enjoyed by Jewish citizens, while simultaneously anchoring and justifying systemic inequality and racism against the Palestinian Arab population. By deliberately choosing to pass the law, the Israeli government is now further denying the possibility that Palestinians will have equal rights under its rule.